

106TH CONGRESS
1ST SESSION

H. R. 2651

To amend title XVIII of the Social Security Act with respect to the restrictions on physician self-referral.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1999

Mr. THOMAS (for himself, Mr. BAIRD, Mr. CRANE, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. ENGLISH, Mr. CAMP, and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act with respect to the restrictions on physician self-referral.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Physician Self-Referral Amendments of 1999”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Eliminating restrictions on physician referrals based on compensation arrangements.

Sec. 3. Exceptions to ownership referral prohibitions.

Sec. 4. Change in definition of group practice.

Sec. 5. Delay in implementation of 1993 ownership referral changes until promulgation of final regulations.

Sec. 6. Exclusion of intraocular lenses, eyeglasses, and contact lenses.

Sec. 7. Permitting supervision of clinical laboratory services by pathologists who are independent contractors.

Sec. 8. Effective date.

1 **SEC. 2. ELIMINATING RESTRICTIONS ON PHYSICIAN RE-**
 2 **FERRALS BASED ON COMPENSATION AR-**
 3 **RANGEMENTS.**

4 (a) IN GENERAL.—Section 1877(a)(2) of the Social
 5 Security Act (42 U.S.C. 1395nn(a)(2)) is amended by
 6 striking “is—” and all that follows through “equity,” and
 7 inserting “is (except as provided in subsection (c)) an own-
 8 ership or investment interest in the entity through eq-
 9 uity,”.

10 (b) CONFORMING AMENDMENTS.—Section 1877 of
 11 such Act (42 U.S.C. 1395nn) is amended—

12 (1) in subsection (b)—

13 (A) in the heading, by striking “TO BOTH
 14 OWNERSHIP AND COMPENSATION ARRANGE-
 15 MENT PROHIBITIONS”; and

16 (B) by redesignating paragraph (4) as
 17 paragraph (7);

18 (2) in subsection (c)—

19 (A) by amending the heading to read as
 20 follows: “EXCEPTION FOR OWNERSHIP OR IN-

1 VESTMENT INTEREST IN PUBLICLY TRADED
2 SECURITIES AND MUTUAL FUNDS"; and

3 (B) in the matter preceding paragraph (1),
4 by striking "subsection (a)(2)(A)" and inserting
5 "subsection (a)(2)";
6 (3) in subsection (d)—

7 (A) by striking the matter preceding para-
8 graph (1);

9 (B) in paragraph (3), by striking "para-
10 graph (1)" and inserting "paragraph (4)"; and

11 (C) by redesignating paragraphs (1), (2),
12 and (3) as paragraphs (4), (5), and (6), respec-
13 tively, and by transferring and inserting such
14 paragraphs after paragraph (3) of subsection
15 (b);

16 (4) by striking subsection (e);

17 (5) in subsection (f)—

18 (A) in the matter preceding paragraph (1),
19 by striking "ownership, investment, and com-
20 pensation" and inserting "ownership and in-
21 vestment";

22 (B) in paragraph (2), by striking "sub-
23 section (a)(2)(A)" and all that follows through
24 "subsection (a)(2)(B))," and inserting "sub-
25 section (a)(2)," and

1 (C) in paragraph (2), by striking “or who
2 have such a compensation relationship with the
3 entity”; and

4 (6) in subsection (h)—

5 (A) by striking paragraphs (1), (2), and
6 (3);

7 (B) in paragraph (4)(A), by striking clause
8 (iv); and

9 (C) in paragraph (4)(B), by striking
10 “RULES.—” and all that follows through “(ii)
11 FACULTY” and inserting “RULES FOR FAC-
12 ULTY”.

13 **SEC. 3. EXCEPTIONS TO OWNERSHIP REFERRAL PROHIBI-**
14 **TIONS.**

15 (a) REVISIONS TO EXCEPTION FOR IN-OFFICE AN-
16 CILLARY SERVICES.—

17 (1) REPEAL OF SITE-OF-SERVICE REQUIRE-
18 MENT.—Section 1877 of the Social Security Act (42
19 U.S.C. 1395nn) is amended—

20 (A) by amending subparagraph (A) of sub-
21 section (b)(2) to read as follows:

22 “(A) that are furnished personally by the
23 referring physician, personally by a physician
24 who is a member of the same group practice
25 as the referring physician, or personally by indi-

viduals who are under the general supervision of the physician or of another physician in the group practice, and"; and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service."

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) of such Act (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "or such group practice." and inserting ", such group practice, or the physician owners of such group practice."

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) of such Act (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as fol-

1 lows: "ANCILLARY SERVICES FURNISHED PERSON-
2 ALLY OR THROUGH GROUP PRACTICE".

3 (b) CLARIFICATION OF EXCEPTION FOR SERVICES
4 FURNISHED IN A RURAL AREA.—Section 1877(d)(2) of
5 such Act (42 U.S.C. 1395nn(d)(2)), before redesignation
6 and transfer as section 1877(b)(5) of such Act under sec-
7 tion 2(b)(3)(C), is amended by striking "substantially all"
8 and inserting "not less than 75 percent".

9 **SEC. 4. CHANGE IN DEFINITION OF GROUP PRACTICE.**

10 Section 1877(h)(4) of the Social Security Act (42
11 U.S.C. 1395nn(h)(4)) is amended—

12 (1) in subparagraph (A), as amended by section
13 2(b)(6)(B)—

14 (A) by adding "and" at the end of clause
15 (iii);

16 (B) by redesignating clause (v) as clause
17 (iv) and by striking ", and" at the end and in-
18 serting a period, and

19 (C) by striking clause (vi); and

20 (2) by adding at the end the following new sub-
21 paragraph:

22 "(C) MEMBER OF A GROUP.—A physician
23 is a 'member' of a group if the physician is an
24 owner or a bona fide employee, or both, of the
25 group."

1 **SEC. 5. DELAY IN IMPLEMENTATION OF 1993 OWNERSHIP**
2 **REFERRAL CHANGES UNTIL PROMULGATION**
3 **OF FINAL REGULATIONS.**

4 Notwithstanding paragraphs (1) and (2) of section
5 13562(b) of the Omnibus Budget Reconciliation Act of
6 1993, the amendments made by section 13562(a) of such
7 Act shall not apply to any referrals made before the effec-
8 tive date of final regulations promulgated by the Secretary
9 of Health and Human Services to carry out such amend-
10 ments.

11 **SEC. 6. EXCLUSION OF INTRAOCULAR LENSES, EYE-**
12 **GLASSES, AND CONTACT LENSES.**

13 Section 1877(h)(6)(H) of the Social Security Act (42
14 U.S.C. 1395nn(h)(6)(H)) is amended by inserting “, other
15 than intraocular lenses, eyeglasses, and contact lenses” be-
16 fore the period.

17 **SEC. 7. PERMITTING SUPERVISION OF CLINICAL LABORA-**
18 **TORY SERVICES BY PATHOLOGISTS WHO ARE**
19 **INDEPENDENT CONTRACTORS.**

20 Section 1877(b)(2) of the Social Security Act (42
21 U.S.C. 1395nn(b)(2)), as amended by section 3(a)(1)(A),
22 is amended by adding at the end the following: “In apply-
23 ing subparagraph (A) in the case of a pathologist who su-
24 pervises or directs the provision of clinical laboratory serv-
25 ices for a group practice, the pathologist is deemed to be
26 a member of (and in) such group practice.”.



1 **SEC. 8. EFFECTIVE DATE.**

2 The amendments made by sections 2 through 4 and
3 6 and 7 of this Act apply to referrals made on or after
4 the date of the enactment of this Act, regardless of wheth-
5 er or not regulations are promulgated to carry out such
6 amendments.

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